

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CYBIL L. FISHER,

Petitioner,

v.

Case No. 12-C-117

UNITED STATES OF AMERICA, INTERNAL REVENUE
SERVICE and MICHAEL R. BAKE, Revenue Agent,

Respondent.

ORDER DENYING REQUEST TO VACATE

On February 2, 2012, Petitioner filed a Petition to Quash IRS Summons, which was docketed as a Motion to Quash. The Court scheduled a hearing on the motion and, when no one appeared, denied the motion with leave to reopen in the event good cause was shown for failure to appear. Petitioner has now filed a motion to vacate the Court's order on the ground that the Court acted improperly in treating her pleading as a motion, as opposed to a petition initiating an original proceeding pursuant to 26 U.S.C. § 7609.

Petitioner is correct that the Court acted improperly in denying her petition for failure to appear. Until the government had appeared, there was no need to rule on the petition. In any event, the government has since advised the Court that the IRS does not intend to enforce the summons that is the subject of the action. Accordingly, the summons should be considered withdrawn and the case can remain closed. The Request to Vacate is denied as moot.

SO ORDERED this 1st day of March, 2012.

 s/ William C. Griesbach
William C. Griesbach
United States District Judge